



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.11.2019

CORAM:

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THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P. (MD) No.12223 of 2019

and

Crl.M.P(MD) No.7666 of 2019

1. M/s.Landmark Housing Projects Chennai(P) Ltd
Rep. by its Managing Director
T. Udayakumar

2.T.Udayakumar ...Petitioners

Vs.

Devi Amirtha ...Respondent

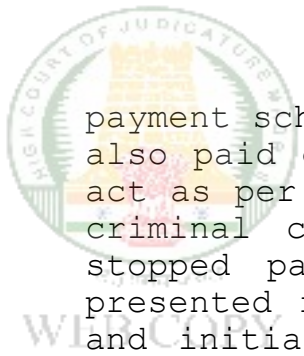
PRAYER: Criminal Original Petition filed under Section 407 Cr.P.C. praying to withdraw the case in S.T.C No. 206/2019 pending on the file of the Judicial Magistrate Kodaikanal and to transfer the same to the file of any competent Metropolitan Magistrate Court at Saidapet Chennai.

For Petitioner : Mr.S.Ramesh

ORDER

This petition has been filed seeking direction to withdraw the case in S.T.C No. 206/2019 pending on the file of the Judicial Magistrate, Kodaikanal and to transfer the same to the file of any competent Metropolitan Magistrate Court at Saidapet, Chennai.

2. The learned counsel for the petitioner would submit that the father of the respondent and the petitioner entered into MoU for the purchase of Villa developed by the petitioners at Palavakkam, Chennai for a total sale consideration of Rs.6,03,00,000/-. During the course of transaction the respondent and other persons paid a sum of Rs.4,95,00,000/-, subsequently they failed to pay the balance amount in time and also did not honour their commitments. Thereafter during the said transaction there was a compromise between them and they entered into MoU. As per the MoU the petitioner agreed to pay a sum of Rs.5,20,00,000/- and a detailed



payment schedule was set out and as per the agreement the petitioner also paid one crore. However the father of the respondent did not act as per the terms and conditions and withdrawn the suit or the criminal complaint as undertaken by him. Further the petitioner stopped payment on issuance of cheque and the said cheque was presented for collection in the account in her Kodaikanal Account and initiated proceedings before the learned Judicial Magistrate, Kodaikanal. He further submitted that the entire transaction held between the petitioner and the respondent is only at Chennai and the villa is also situated at Palavakkam, Chennai. Only to drag the proceedings to Kodaikanal the respondent opened a new account at Kodaikanal and presented the cheque. Infact the said MoU was executed only at Kodaikanal and all the witnesses are from Chennai and temporarily having address at Kodai retreat, 55 Edistone compound, Convent Road, Kodaikanal. Even according to the respondent no transaction is at kodaikanal. Therefore he sought for transfer of the entire investigation to Chennai.

3. Though notice served to the respondent and name printed in the cause list, neither the counsel nor the respondent appeared before the Court today.

4. It is seen that the respondent lodged complaint as against the petitioner under Section 138 of the Negotiable Instrument Act and the same has been taken cognizance in STC No.206 of 2019 on the file of the learned Judicial Magistrate, Kodaikanal. It is seen from the averments made in the complaint that the entire transaction took place at Chennai and MoU is also executed at Chennai. The petitioner and respondent are residing at Chennai and the alleged cheque was also presented at Kodaikanal as the jurisdiction of Kodaikanal is no way connected with the transaction and also the residence of the petitioner as well as the respondent. The respondent is also having no permanent address at Kodaikanal.

5. Considering the above facts and circumstances of the case, this Court deems it fit to withdraw the case pending on the file of the learned Judicial Magistrate, Kodaikanal in STC No.206 of 2019 and transfer the same to the learned XVII Metropolitan Magistrate, Saidapet, Chennai. The learned Judicial Magistrate, Kodaikanal is directed to transfer the entire case bundles forthwith to the learned XVII Metropolitan Magistrate, Saidapet, Chennai and the learned XVII Metropolitan Magistrate, Saidapet, Chennai after receipt of case bundles from the learned Judicial Magistrate, Kodaikanal is directed to complete the trial within a period of one year.



6. The Criminal Original Petition is disposed of with the above direction.

Sd/-

Assistant Registrar

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Sub Assistant Registrar(CS)

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To

1. The Judicial Magistrate, Kodaikanal

2.The XVII Metropolitan Magistrate, Saidapet, Chennai.

+2 CC to M/s.S.RAMESH, Advocate SR-95404.

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